RECENT DECISIONS

BANKRUPTCY—LIENS ON EXEMPT PROPERTY UNDER § 67(f).—Hall, a resident of Nebraska and employed by a railroad in that state, while insolvent went to Iowa, where two actions for debt were instituted against him. He was personally served with process and the railroad, which owed him money, was garnisheed. Afterwards, within less than four months, Hall, having returned to Nebraska, was adjudged a voluntary bankrupt, notice of the bankruptcy proceedings being given to the Iowa plaintiffs and to the railroad company. Thereafter, in both cases, judgment was entered in the Iowa court against the railroad company as garnishee; Hall's wages were then set aside by the trustee as exempt. Having procured his discharge, he demanded his wages of the railroad company and payment was refused on the ground that the liens under the Iowa proceedings were not annulled by the adjudication in bankruptcy. In an action by Hall against the railroad company, it was *held,* § 67(f) of the Bankruptcy Act annulled the liens and the plaintiff could recover. *Chicago, etc., Ry. Co.* v. *Hall,* 33 Sup. Ct. 885. See NOTES, p. 64.

BANKRUPTCY—LIFE INSURANCE POLICIES AS ASSETS.—A life insurance company lent to a policy-holder an amount equal to the cash surrender value of the policy, taking an assignment thereof as collateral security for the loan. Two months before a petition in bankruptcy was filed against the policy-holder, he assigned the policy to a stranger, subject to the prior assignment to the insurance company. *Held,* the trustee in bankruptcy of the policy-holder took no title to the policy under § 70(a) of the Bankrupt Act. *Burlingham* v. *Crouse,* 33 Sup. Ct. 564.

This decision settles the rule that only policies which have a surrender value available to the bankrupt as a cash asset, at the date of the petition in bankruptcy, pass to the trustee, subject to the bankrupt's right to redeem by paying the cash surrender value to the trustee. Previously the question had been unsettled, some of the lower Federal courts having held that policies which had no cash surrender value passed to the trustee. *Re Coleman,* 69 C. C. A. 496; *Re Hettley,* 99 C. C. A. 87. In the principal case, the policy had no actual surrender value, the bankrupt's estate having previously been enriched by the loan equal to the cash surrender value. Hence the assignment of the policy within four months prior to the petition in bankruptcy was not a voidable preference—the assignee taking nothing that the trustee had a claim to.

In another decision, the United States Supreme Court fixes the time when the petition is filed as the date of cleavage when the cash surrender value of the policy is to be ascertained, even though the bankrupt dies after petition but before adjudication. *Everett* v. *Judson,* 33 Sup. Ct. 568.

CONSTITUTIONAL LAW — WITNESSES — SELF-INCRIMINATION. — A statute provided that any person operating a motor vehicle, who, knowing that

injury has been caused to a person or property due to the culpability of the operator or to accident leaves the place of the injury or accident without giving his name, residence, and license number to the injured party or a police officer, shall be guilty of a felony. *Held,* the provision is constitutional. *People* v. *Rosenheimer* (N. Y.), 102 N. E. 530.

The statute was objected to as violating the constitutional provision that no person shall be compelled in any criminal case to be a witness against himself. Exemption from compulsory self-incrimination did not form part of the "law of the land" prior to the separation of the colonies from the mother-country, nor is it one of the fundamental rights, immunities, and privileges of citizens of the U. S., or an element of "due process of law," within the meaning of the Federal Constitution or the Fourteenth Amendment thereto. *Twining* v. *State of N. J.,* 211 U. S. 78; WIGMORE ON EVIDENCE, § 2250. Neither does the Fifth Amendment limit the powers of the State in respect to their own people, but operates only on the national government. *Spies* v. *Ill.,* 123 U. S. 131; *City of St. Joseph* v. *Levin,* 128 Mo. 588, 31 S. W. 101, 49 Am. St. Rep. 577; *People* v. *Wyatt,* 39 Misc. Rep. 456, 80 N. Y. Supp. 198. Therefore the only guaranty of this immunity is to be found in the state constitutions. This immunity, however, is a personal one and may be waived. *People* v. *Arnold,* 40 Mich. 710; *State* v. *Zdanowicz,* 69 N. J. Law 619, 55 Atl. 743.

It is settled that on account of the danger to life and other traffic on the public highway from the operation of automobiles therein the legislature may prohibit their use altogether. *State* v. *Mayo,* 106 Me. 62, 75 Atl. 259, 26 L. R. A. (N. S.) 502; *Com.* v. *Kingsbury,* 199 Mass. 542, 85 N. E. 848, 127 Am. St. Rep. 513. Being a privilege, the legislature may impose any condition it sees fit upon its exercise. *People* v. *Schneider,* 139 Mich. 673, 103 N. W. 172, 69 L. R. A. 345; *Ex parte Kneedler,* 243 Mo. 632, 147 S. W. 983, 40 L. R. A. (N. S.) 622. Hence as held in the principal case, the legislature has the right to require the waiver of this immunity as a condition precedent to the operation of motor vehicles on the public highway.

CONSTITUTIONAL LAW—ADMISSIBILITY OF EVIDENCE ILLEGALLY OBTAINED.—Where officers, without a warrant, took by force keys from the pockets of one charged with keeping liquor in his place of business, and unlocking the safe in his office, found whiskey, *held,* evidence thus procured is inadmissible, as compelling a person to incriminate himself in contravention of the constitutional provision against self-incrimination. *Underwood* v. *State* (Ga.), 78 S. E. 1103. See NOTES, p. 70.

COVENANTS AGAINST INCUMBRANCES—PHYSICAL CONDITIONS—BENEFICIAL EASEMENTS.—The defendant conveyed to B a certain lot traversed by a public sewer about six feet under ground, the existence of which was unknown to the vendee, but in use and still used by the public for forty years, the deed of conveyance covenanting generally that the premises were free from all incumbrances. The plaintiff, as assignor of B, sued for damages for breach of the covenant. *Held,* such a